

Introduced by Senators Soto and Margett

(Coauthors: Assembly Members Calderon, Chavez, Huff, and Negrete
McLeod)

February 17, 2005

An act to add Article 2.7 (commencing with Section 71639) to Chapter 2 of Part 5 of Division 20 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as introduced, Soto. Three Valleys Municipal Water District: standby charge authority.

The existing Municipal Water District Law of 1911 authorizes a municipal water district, by ordinance or resolution, as specified, to impose an annual water standby assessment or availability charge in any portion of the district to which the water is made available by the district, whether the water is actually used or not. The existing Uniform Standby Charge Procedures Act generally authorizes a local agency that is authorized to provide water service to impose, in any given year and in accordance with prescribed procedures, a water standby charge on land to which water service is made available by that local agency. Article XIII C and Article XIII D of the California Constitution subject local governmental entities to various requirements prior to imposing or increasing certain taxes, fees, or assessments.

This bill would authorize the Three Valleys Municipal Water District, by resolution, to adopt an assessment with a schedule of annual adjustments, and to adjust the amount of an assessment in a specified manner, subject to a prescribed maximum assessment amount and prescribed notice and hearing requirements. The bill would state that, for the purposes of those constitutional provisions,

the district has not increased an assessment if the district adjusts an assessment in a specified manner.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) The Three Valleys Municipal Water District (TVMWD) is
4 located in eastern Los Angeles County and is a member public
5 agency of the Metropolitan Water District of Southern California
6 (MWD). TVMWD distributes at wholesale to approximately 14
7 retail agencies imported water made available from the Colorado
8 River and the State Water Project.

9 (b) In or about July 1995, MWD began assessing each of its
10 member public agencies a readiness-to-serve (RTS) charge for
11 the purpose of generating firm revenues to pay for debt service
12 on MWD's capital improvement program. As of the 200203
13 fiscal year, the amount of the RTS charge imposed on TVMWD
14 by MWD totaled approximately three million one hundred fifty
15 thousand dollars (\$3,150,000).

16 (c) Prior to the levy of the RTS charge, MWD had a standby
17 charge in place. When the RTS charge was imposed, MWD
18 member public agencies were allowed an option to have MWD
19 continue collecting the standby charge to help offset a portion of
20 the RTS charge. TVMWD exercised this option, and the MWD
21 standby charge covers about one million eight hundred thousand
22 dollars (\$1,800,000) of TVMWD's annual RTS obligation. Thus,
23 TVMWD is in need of a means for collecting the remainder of
24 the RTS charge not covered by the MWD standby charge.

25 (d) A standby charge is the most appropriate mechanism to
26 fully finance the portion of the RTS charge not funded by the
27 MWD standby charge because the recognized purpose of a
28 standby charge is to generate sufficient funds to pay for the types
29 of water-related services intended to be financed by MWD's RTS
30 charge, and because the imposition of a standby charge is
31 consistent with the manner in which MWD itself has treated the
32 assessment responsibilities for its own RTS charge. Otherwise,

1 TVMWD would be required to continue to fund the RTS
2 shortfall by increasing its water rates to its retail agencies.

3 (e) Thus, on July 10, 1996, TVMWD's board of directors
4 adopted a resolution that established a standby charge designed
5 to fund MWD's RTS charge and related administrative costs
6 incurred by TVMWD in connection therewith. The resolution
7 expressly provided that the standby charge was based upon the
8 report of a qualified engineer which fixed the amount of the
9 standby charge for 199697 fiscal year at five dollars and
10 ninety-two cents (\$5.92) per equivalent dwelling unit (EDU).
11 Further, the engineer's report provides for the adjustment of that
12 standby charge during subsequent fiscal years according to the
13 actual amount by which the RTS charge increases, and subject to
14 a maximum assessment amount of twenty-nine dollars and
15 forty-one cents (\$29.41) per EDU.

16 (f) Thereafter, on November 5, 1996, Proposition 218 was
17 approved by the voters, which added Article XIII C and Article
18 XIII D to the California Constitution. TVMWD's standby charge
19 is subject to Section 4 of Article XIII D which details the
20 procedures and requirements that an agency is required to follow
21 for the levy of all assessments. As a result, TVMWD has been
22 required to readopt its standby charge each fiscal year at the
23 original rate of five dollars and ninety-two cents (\$5.92) per
24 EDU. Consequently, TVMWD has only received approximately
25 one million dollars (\$1,000,000) each year through the collection
26 of its standby charge at the five dollars and ninety-two cents
27 (\$5.92) per EDU rate. After deducting the one million eight
28 hundred thousand dollars (\$1,800,000) contribution attributable
29 to the MWD standby charge from the total RTS liability three
30 million one hundred fifty thousand dollars (\$3,150,000) for the
31 200203 fiscal year), TVMWD has been required to collect the
32 remaining unfunded amount (nearly three hundred fifty thousand
33 dollars (\$350,000) in the 200203 fiscal year) through increased
34 water rates charged to its retail agencies.

35 (g) Consequently, this act is necessary in order to achieve the
36 desired objectives of ensuring a fair and adequate mechanism to
37 generate revenue to pay MWD's RTS charge and preventing the
38 need for TVMWD to cause rate increases to be levied on current
39 water users who would be subsidizing the owners of vacant
40 property within TVMWD for the cost of having MWD and

1 TVMWD ready, willing, and available to provide water service
2 to their parcels.

3 SEC. 2. Article 2.7 (commencing with Section 71639) is
4 added to Chapter 2 of Part 5 of Division 20 of the Water Code, to
5 read:

6
7 Article 2.7. Standby Assessments
8

9 71639. (a) This article applies to the Three Valleys Municipal
10 Water District.

11 (b) Notwithstanding any other provision of law, the district, by
12 resolution, may adopt an assessment with a schedule of annual
13 adjustments, and adjust the amount of an assessment in
14 accordance with this section, if the adjustment is made in the
15 same manner as provided for taxes, fees, and charges in
16 subparagraph (A) or (B) of paragraph (2) of subdivision (h) of
17 Section 53750 of the Government Code.

18 (c) The district shall cause notice of the intent to adopt the
19 resolution to be published pursuant to Section 6066 of the
20 Government Code prior to the date set for the adoption of the
21 assessment, and shall hear any and all objections at the time and
22 place set forth in the notice. The district, at the time and place
23 specified in the notice, shall conduct the hearing and consider all
24 objections to the assessment. Thereafter, the district may adjust
25 the assessment, subject to a maximum assessment amount of
26 twenty-nine dollars and forty-one cents (\$29.41) per equivalent
27 dwelling unit.

28 (d) For the purposes of Article XIII C and Article XIII D of the
29 California Constitution, the district has not increased an
30 assessment if the district adjusts an assessment in the same
31 manner as provided for taxes, fees, and charges in subparagraph
32 (A) or (B) of paragraph (2) of subdivision (h) of Section 53750
33 of the Government Code.

34 SEC. 3. The Legislature finds and declares that this act, which
35 is applicable only to the Three Valleys Municipal Water District,
36 is necessary because of unique and special problems in that
37 district. It is, therefore, hereby declared that a general law within
38 the meaning of Section 16 of Article IV of the California
39 Constitution cannot be made applicable to the district and the
40 enactment of this special law is necessary for the public good.

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